PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number
23724-07787

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on October 26, 2005

Signature Robert A. Hulse

Typed or printed name Robert A. Hulse, Reg. No. 48,473

Application Number	Filed
10/806,730	March 22, 2004

First Named Inventor
Yi-Lung Kuo

Art Unit	Examiner
2841	Dameon E. Levi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

☒ attorney or agent of record.
Registration number 48,473

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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October 26, 2005
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

ATTACHMENT TO THE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pre-appeal review is requested because the rejections of record are clearly improper and without and factual or legal basis. Applicant respectfully requests that the panel indicate claims 2 and 7-11 recite allowable subject matter.

I. Status of the Claims

Claims 1-11 are pending and stand rejected in this application. In an Amendment filed after a final rejection, Applicant attempted to amend the claims by canceling dependent claim 2 and writing its limitations into independent claim 1. The examiner refused to enter this amendment on the grounds that it raised new issues that would require further consideration or search and that it did not place the application in better form for appeal.[1]

Because the amendment was not entered, Applicant appeals the rejections of claims 2 and 7-11. Should these rejections be withdrawn, Applicant may reintroduce the amendment to rewrite claim 2 into claim 1, thereby bringing the application into condition for allowance.

II. Claim Rejection: Claim 2

Claim 2 was rejected as made obvious by U.S. Patent No. 6,278,614 to Beaman et al in view of U.S. Patent 6,834,766 to Lin et al. This rejection is clearly in error because the proposed combination does not disclose the limitation: "wherein, when the card is installed, a lower end of the bracket protrudes from an opening in a bottom surface of the chassis."

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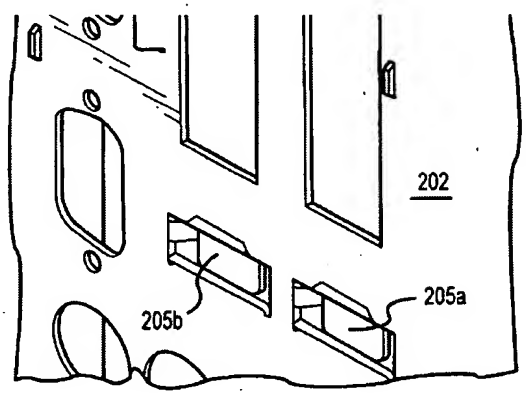
[1] Because the amendment merely canceled a dependent claim and added its limitations into an independent claim, the refusal to enter the amendment was improper under 37 C.F.R. § 1.116(b)(1) and MPEP 714.13.

In the final Office Action, the examiner stated that this claimed feature was disclosed by elements 205a and 205b in Fig. 5 of Beaman. For the panel's convenience, a relevant portion of Beaman's FIG. 5 is reproduced below.



As the drawing clearly shows, the lower end of the interface card is passed through a slot (element 205a or 205b) formed in a rear panel of the computer chassis. These slots are formed by a tab that has been separated from the chassis and deformed inward to create the slot through which the interface card's bracket fits.

Clearly, Beaman's slots in the rear panel of the computer chassis are not openings in a bottom surface of the chassis. This distinction is important in several respects. For example, Beaman's slots involve additional manufacturing complexity and associated costs. Rather than merely forming an opening in the bottom surface of a chassis, Beaman's chassis must have a tab that has been separated from the chassis and deformed inward to form each slot. Moreover, the claimed openings in the bottom of the chassis allow the interface card to sit lower in a computer. Because Beaman's openings are not in the bottom of the chassis, interface cards cannot extend through the bottom of the chassis and must therefore sit higher in Beaman's computer. This forces Beaman's computer to be taller and further constrains the space within Beaman's chassis.

The examiner's assertion that each of Beaman's elements 205a and 205b is an "opening in a bottom surface of the chassis" is clearly erroneous. The rejection of claim 2 cannot stand.

III. Claim Rejections: Claims 7-9 and 11

Claims 7-11 were rejected as anticipated by Lin. As with claim 2, claims 7-9 and 11 recite that, "when the card is installed, a lower end of the bracket protrudes from an opening in a bottom surface of the chassis." The specification explains that this feature secures an interface card at two points instead of just one (at the extension of the bracket and at the lower end of the bracket), and it allows the card to be seated lower in the chassis. Like Beaman, Lin clearly fails to disclose this limitation.

In the Office Action, the portions of Lin cited for this limitation are elements 22, 524, and 10 in the drawings and col. 3, lines 23-28, in the description. But these portions are not related in any way to the claimed limitation. Elements 22, 524, and 10 are part of a mechanism in the rear panel of the chassis for securing an interface card by an extension of the card's bracket. Indeed, the examiner cited these elements for the claimed limitation of a window in the chassis through which an extension of an interface card passes and is secured against a locating plate. These same elements in Lin cannot also be the claimed openings in the bottom of the chassis through which the other end of the bracket protrudes. Similarly, col. 3, lines 23-28, of Lin discusses how an extension of a card's bracket is secured by a clamp that fits over a window in the rear of the chassis. This passage says nothing of the lower end of the bracket protruding through an opening in the bottom of the chassis. Therefore, the Office Action fails to point to anywhere in Lin that discloses this claimed feature.

Moreover, Lin's drawings plainly show this feature to be absent from Lin's chassis, in which the bracket of an interface card does not protrude through an opening in the bottom surface of the chassis. For the panel's convenience, Lin's FIG. 5 is reproduced below.

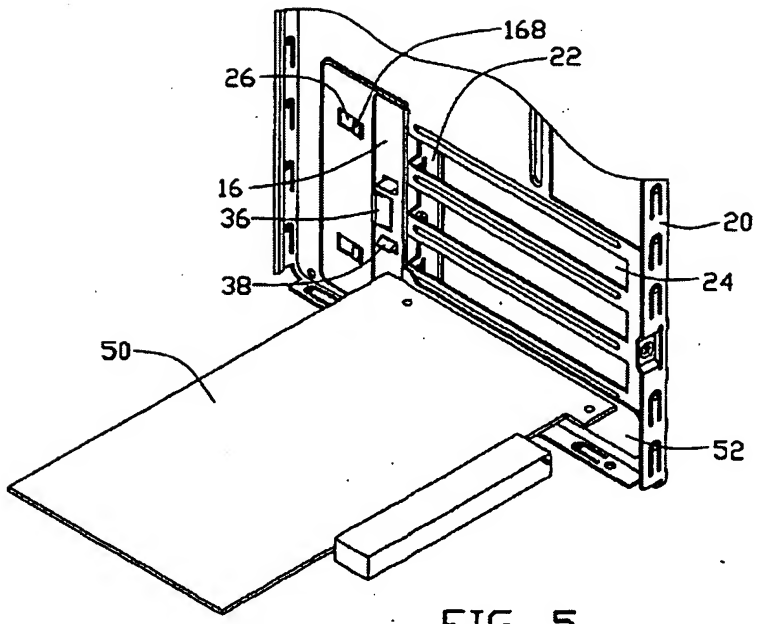


FIG. 5

It is clear from this drawing that Lin's chassis does not have any openings in its bottom[2] that allow the lower end of the interface card's bracket to pass through. Indeed, this view of Lin's chassis clearly shows that the lower end of the interface card's bracket (i.e., near the "52" label) does not pass through any openings in the chassis.

The rejection of claims 7-11 is therefore clearly erroneous, and claims 7-11 are novel over Lin.

IV. Claim Rejection: Claim 10

Claim 10 was rejected as made obvious by Lin in view of Beaman. Claim 10, by its dependency on claim 7, recites that, "when the card is installed, a lower end of the bracket protrudes from an opening in a bottom surface of the chassis." As explained above, neither Lin nor Beaman disclose this claimed feature; therefore, their combination cannot suggest the feature either. Claim 10 is thus patentable over any combination of Lin and Beaman.

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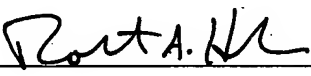
[2] As the chassis is oriented in Fig. 5, the bottom of the chassis is facing to the right.

V. Summary

Based on the foregoing, Applicant respectfully submits that each of the pending rejections suffers from a clear deficiency in the prima facie case asserted in support of the rejection. Accordingly, Applicant requests that the rejections of claims 2-11 be withdrawn.

Respectfully submitted,
YI-LUNG KUO

Dated: October 26, 2005

By: 

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